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Challenges and good practices in the criminalization, investigation and prosecution of illicit firearms trafficking, and measures to enhance international cooperation in criminal matters, including through effective tracing of firearms in ongoing investigations

Monitoring illicit trafficking flows in firearms at the national, regional and global levels

Challenges and good practices in the prevention of the illicit manufacturing of firearms

Challenges and good practices in countering illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, and measures to facilitate the implementation of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime

Background paper prepared by the Secretariat

I. Introduction

1. The open-ended intergovernmental Working Group on Firearms was established pursuant to resolution 5/4 of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime at its fifth session, to advise and assist the Conference in the implementation of its mandate with regard to

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the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition[1] (Firearms Protocol). In particular, the Working Group was established to facilitate the implementation of the Firearms Protocol through the exchange of experience and practices among experts and practitioners, including identifying successful practices, weaknesses, gaps and challenges, as well as priorities and relevant topics, in the fight against trafficking in firearms. The Working Group was also tasked with making recommendations to the Conference on how States parties can better implement the provisions of the Firearms Protocol, on the activities that the Secretariat should perform, and on the development of technical assistance tools relating to the implementation of the Firearms Protocol.

2. The Working Group held its first meeting on 21 to 22 May 2012 in Vienna, and adopted a report containing a wide range of recommendations[2] to enhance firearms control and to strengthen the criminal justice response to prevent and combat firearms trafficking and related crimes. In its resolution 6/2, the Conference took note of these recommendations and requested that the Working Group continue advising and assisting the Conference in the implementation of its mandate with regard to the Firearms Protocol, and further decided that the Working Group should hold at least one intersessional meeting. In the same resolution, the Working Group was invited to consider practical proposals for implementing the recommendations formulated at its first meeting, and encouraged States to present their views and comments on the implementation of the Firearms Protocol, including those relating to factors that may impede accession, ratification or implementation, as well as on its strong points, good practices and progress made with its application, with a view to achieving closer cooperation on preventing, combating and eradicating the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition.

3. The present paper was prepared by the Secretariat for the consideration of the Working Group during its deliberation of items 2, 3, and 4 of the provisional agenda.

II. Challenges and good practices in the criminalization, investigation and prosecution of illicit firearms trafficking, and measures to enhance international cooperation in criminal matters

4. The investigation and prosecution of illicit firearms trafficking is a challenging task for many States. In the report of its first meeting, the Working Group recommended that the Conference should urge States parties that have not yet done so to review and strengthen their criminal legislation and to establish as criminal offences the acts covered by the Firearms Protocol, including by introducing sanctions commensurate with the nature and gravity of the offence.

5. Furthermore, the Working Group recommended, inter alia, that States should aim to strengthen their overall capacities to conduct criminal investigations, share

[1] United Nations, *Treaty Series*.
[2] CTOC_COP_2012_6.

information and good practices in the investigation and prosecution of firearms-related criminality, and enhance international cooperation, including tracing of firearms and ammunition, judicial cooperation and extradition to combat illicit firearms trafficking and its links to organized crime.

6. In resolution 6/2, the Conference further requested UNODC through its global programme on firearms to assist Member States, upon request, in strengthening their capacities to investigate and prosecute illicit manufacturing of and trafficking in firearms and related forms of transnational organized crime, inter alia, through practical workshops and exchanges of experience and direct contact among investigators and prosecutors on the application of the Convention and its Firearms Protocol.

A. Challenges in the adoption of adequate legislative frameworks

Multiple legal instruments require comprehensive approaches

7. The international legal regime on firearms consists of a variety of international and regional instruments which have been adopted over the past decades to counter the illicit manufacturing of and trafficking in firearms, including new initiatives aimed at introducing greater controls over the arms trade. This plurality of instruments demonstrates the complex and multidimensional nature of the problem and highlights the need for a diversified and multidisciplinary approach in countering the illicit manufacturing of and trafficking in firearms.

8. The Firearms Protocol addresses the illicit manufacturing of and trafficking in firearms from the criminal justice aspect, taking into account the transnational nature of the phenomenon and its links to organized crime. Other instruments address the issue from a disarmament, trade or development perspective, and focus, for instance, on measures to reduce the accumulation, proliferation, diversion and misuse of firearms, rather than on bringing offenders to justice. These instruments, while substantively different, are complementary to each other, which should be considered by lawmakers when developing national firearms legislation.

9. The first meeting of the Working Group[3] recommended that the Conference urge States parties to adopt national and regional integrated approaches for the implementation of the Firearms Protocol, taking into account, where possible, economic and social factors having an impact upon firearms-related crime.

10. Currently, the majority of the 109 Parties to the Protocol have commitments under multiple firearms-related instruments. Converting the provisions of multiple international treaties into domestic legislation is, however, not always easy. The UNODC Legislative Guide,[4] the Model Law on Firearms[5] and the UNODC Model

[3] CTOC/COP/WG.6/2012/4.

[4] Legislative Guide for the Implementation of the United Nations Convention Against Transnational Organized Crime and the Protocols Thereto, United Nations, New York, 2004. The Model Law on Firearms is available in all United Nations languages and has recently been revised and updated, in order to reflect specific comments on new instruments, such as the Arms Trade Treaty, which may impact on the implementation of specific Protocol provisions.

[5] Model Law against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, United Nations, Vienna, 2011.

Legislative Provisions Against Organized Crime,[6] along with similar tools developed under other instruments, can assist lawmakers in understanding the legislative requirements of the Protocol and their implications in terms of elaborating appropriate legislation.

Criminalization

11. Article 5 of the Firearms Protocol requires States to criminalize three categories of offences, namely:

(a) Illicit manufacturing, which encompasses:

(i) Any manufacturing or assembly of firearms without marking;

(ii) Any manufacturing or assembly from illicit (trafficked) parts and components; and

(iii) Any manufacturing or assembly without legal permit or authorization;

(b) Illicit trafficking, which includes:

(i) Any transnational transfer without legal authorization; and

(ii) Any transnational transfer if firearms are not marked;

(c) Removing or altering serial numbers or other markings.

12. Article 5 provides the basic requirements for States to criminalize the conduct described therein as offences, while the actual description of the terms "illicit manufacturing" and "illicit trafficking" are defined in article 3. Other elements of these core offences are also linked to other provisions of the Protocol, such as on marking (article 8, on Marking of firearms), and the issuance of authorizations or licences to import or export (article 10, on General requirements for export, import and transit licensing or authorization systems). States must read these provisions in conjunction, and refer specifically to the definitions of the terms "firearm", "parts and components" and "ammunition" when drafting domestic legislation.

13. Regarding the marking of firearms, article 5 (c) criminalizes activities that render the markings on a firearm unintelligible or inaccurate, making it impossible to uniquely identify the firearm or trace it against past records created from the original marking. The criminalization of these acts is meant to ensure that firearms can be identified and traced and applies to all conduct that involves tampering with the markings at any time after the manufacturing or assembly process is completed, with the exception of cases where markings are legally altered or added.

14. The Protocol encourages that the implementation of a comprehensive national firearms control regime extend beyond its strictly mandatory provisions and include also its optional provisions. Where this is the case, States may also consider introducing criminal offences to allow for stricter control and enforcement measures, such as in the area of record-keeping and licensing, as well as control over brokers and brokering.

[6] United Nations, New York, 20.

15. At its first meeting, the Working Group recommended that the Conference invite States parties to revise and adapt their national legislation in a manner consistent with the Firearms Protocol and to exchange information at the bilateral, subregional, regional and international levels on national approaches to the use of definitions and nomenclature in the area of firearms. It recommended in particular that States introduce the criminal offences envisaged in the Protocol, including appropriate sanctions that are commensurate with the nature and gravity of the offence. This includes ensuring that production of firearms, including handcrafted firearms, their parts and components and ammunition is in accordance with the proper licensing, authorization and marking requirements, including through the use of appropriate criminalization provisions.

Challenges

16. Although States have made great progress in adopting or reviewing their firearms legislation in accordance with the international legal regime, these efforts have at times remained incomplete or lack internal coherence. In several cases, countries adopted regulatory frameworks without the corresponding criminal justice provisions, thus jeopardizing any serious enforcement effort and making it difficult to conduct criminal investigations and prosecution of the persons involved in such illicit activities. To date, several countries from various regions have still not criminalized the illicit trafficking in firearms and consider this conduct as an aggravated form of contraband.

17. One major challenge in adopting adequate legislative frameworks is carrying out comprehensive analyses of existing legislation to identify the gaps in substantive and procedural provisions. Timely review of domestic legislation may also be constrained by the complexity of the coordination among numerous national stakeholders. In other cases, countries have experienced difficulties in merging the multiplicity of internal regulations and directives adopted over years under one comprehensive law. These factors have contributed to delays in the implementation of the Firearms Protocol provisions, despite the political will.

Good practices

18. Experience derived from the provision of technical assistance by UNODC has shown that whenever the scope and the extent of draft legislation are widely shared and discussed with all concerned stakeholders, including parliamentarians and civil society organizations, the adoption process has proceeded relatively smoothly.

19. Through its Global Firearms Programme, UNODC has been working in several countries, interacting with government authorities, parliamentarians and civil society organizations, in assisting the legislative reform efforts and contributing to disseminate knowledge and awareness on the legislative requirements, in particular with regard to criminalization provisions. The use of the UNODC Model Law on Firearms, which has been of significant help for legal drafters in understanding the extent of the provisions and their possible transposition into national law, is also identified as a good practice.

B. Investigation and prosecution of firearms trafficking

Challenges

20. The criminal justice response to trafficking in firearms is often significantly hampered by a lack of general knowledge among criminal justice practitioners regarding this phenomenon, as well as weak capacity to investigate these forms of trafficking and to undertake risk assessments in profiling potential trafficking cargoes. Special investigative techniques and other provisions aimed at facilitating criminal investigations and prosecution, as contained in the Organized Crime Convention, are not always used by States parties to deal with firearms-specific cases.

21. Another challenge is the lack of a critical number of criminal justice practitioners equipped with specialized skills necessary to lead national efforts to prevent, detect, investigate, prosecute and adjudicate cases of firearms trafficking. Several countries have identified the need, and requested assistance, for the possible establishment of specialized multidisciplinary firearms units, and the set-up of specialized investigative teams on firearms and organized crime, and on broader border control issues, among other topics.

22. The illicit firearms trade is characterized by the fact that it relies to a great extent on legal channels, such as regular commercial channels. Unlike other illegal commodities, firearms are durable and long-lasting goods, not subject to a constant contraband flow, but rather to episodic movements, which makes their detection and control very difficult. Effective licensing regimes and proper profiling and control measures are essential to the prevention, detection, investigation and prosecution of such offences.

23. Although most countries have established a licensing system for manufacturing and transferring firearms, these laws are often outdated, inadequate or lack the necessary practical and administrative procedures to be effectively implemented. Investigation and prosecution is often constrained by contradictory legislation, insufficiently regulated legal activities and discrepancies in the level of control and enforcement of such legislation. Lack of subregional and regional legislative harmonization is another impediment for effective criminal investigation and prosecution, often aggravated by the fact that not all countries have introduced appropriate criminal offences for the illicit manufacturing of and trafficking in firearms and ammunition.

24. The first meeting of the Working Group recommended a series of preventive measures to strengthen marking and record-keeping of firearms and their transfer control regime, with a view to facilitating the prevention and detection of diversion and illicit trafficking. It further emphasized the importance of strengthening the capacity of all relevant government and state authorities, including law enforcement, customs, prosecution and judiciary authorities to effectively detect, prevent and combat firearms-related offences and to ensure full implementation of firearms legislation, placing priority on the investigation, prosecution and adjudication of firearms-related criminal cases, and to identify and share good practices with regard to the investigation and prosecution of firearms offences and links to organized crime.

Good practices

25. A capability to trace firearms can play a crucial role in the investigation of criminal offences. The preventive and regulatory requirements for States to mark and record firearms and the related transfers, and to establish functioning licensing authorities for legal manufacturing and transfer of arms and ammunition, are not only geared towards the correct operation of the firearms regime, but also towards the creation of clear conditions to facilitate enforcement and the conduct of related investigations.

26. The timely tracing of illicit firearms and ammunition enables States to know the history of all legal transfers and movements of a firearm, and to detect the moment where the firearm was diverted into the illegal circuit. Broader collateral investigations on firearms and ammunition, including the tracking of firearms-related financial transactions, can provide invaluable contributions and mark the turning point in complex organized crime and terrorism cases. Apparently simple cases involving a firearm can be found to be part of broader international trafficking cases involving organized crime or terrorist groups, thanks to effective international cooperation and firearms tracing, and the appropriate use of other forensic and ballistic types of analysis on firearms and ammunition. Such information can contribute to reconstruct the dynamics of a crime and help clarify the involvement of organized crime groups. The ballistic information of ammunition can help investigators establishing whether a firearm was used in previous crimes, thus allowing for the determination of possible links among crimes that would otherwise appear to have been committed in isolation. This is particularly important in relation to organized crime or terrorist investigations, where a major difficulty lies in the lack of knowledge on the structure and composition of the criminal groups, including their relationship to other groups.

27. Some States have had positive experiences with the establishment of central firearms units that are responsible for carrying out and supporting firearms-specific work, including criminal investigations involving a firearm, and which are in charge of processing all seized firearms, irrespective of their source. These specialized "firearms hubs" are very convenient in that they require the higher skilled training of only a few officers and can provide support to a wide range of national agencies that would not deal with firearms cases on a daily basis. Such specialized units can be beneficial not only for firearms investigation purposes, but also as a data generator and processor of up-to-date statistics for intelligence and senior law enforcement commands, as well as assisting law enforcement in tracing the source of firearms and streamlining the testing system, for more manageable prosecutions.

28. Nevertheless, the use of modern investigation techniques and analysis methods on firearms is still limited in criminal investigations related to organized crime due to, inter alia, lack of technical capacities to undertake forensic and ballistic investigations, insufficient human and financial resources, and, to a certain extent, a lack of awareness regarding their uses. It would be considered a good practice to regulate that all firearms, at the time of manufacturing, be subject to ballistic tests and that this information be recorded and gathered, together with firearms specific information. Such a "ballistic fingerprint" could greatly support criminal investigations, notwithstanding the fact that any firearm is potentially subject to post-manufacturing manipulation and that single parts and components may be replaced, which could limit the value of this information.

29. Crime prevention and criminal justice strategies and measures against organized crime need to include firearms specific investigations as cross-cutting elements of any broader strategy aimed at dismantling criminal groups and networks and bringing offenders to justice. Similarly, firearms control regimes cannot exist in isolation but must be connected to wider criminal justice responses against organized crime and other serious crimes.

C. Exchange of information

30. Information exchange and international cooperation are fundamental pillars in any serious effort to counter organized crime, including illicit manufacturing of and trafficking in firearms. Article 12 of the Firearms Protocol specifically encourages States to share relevant case-specific information on matters such as authorized producers, dealers, importers, exporters and, whenever possible, carriers of firearms, their parts and components and ammunition (paragraph 1), as well as general information on matters such as organized criminal groups known or suspected of taking part in these activities, the means of concealment used in the illicit manufacturing of or trafficking in firearms, and the methods and means, points of dispatch and destination and routes customarily used by organized criminal groups. States are also encouraged to exchange their legislative experience and practices in countering these crimes (paragraph 2), which includes the exchange of scientific and technological information among law enforcement and cooperation among States (paragraph 3).

31. At its first meeting, the Working Group on Firearms acknowledged the importance of information exchange and recommended urging States parties to exchange relevant information, including tracing information, that would enable them to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms. It recommended also that States parties create mechanisms for the exchange of information on registration of firearms and databases on seizures of firearms, as well as information on trends and emerging modalities of organized crime related to illicit trafficking in firearms.

32. Many States and subregions are increasingly engaging in various forms of information exchange, often facilitated by international, regional and subregional organizations through the establishment of platforms for regular meetings and exchanges. However, the level of interaction and exchange still varies among countries and regions; durable and sustained confidence-building measures are required to generate trust among States and practitioners and to facilitate the flow of information.

Good practices

33. Illicit trafficking in firearms and ammunition is by definition a transnational activity that involves two or more countries. In order to be able to prevent and combat these forms of crime, States need to have a full understanding of the phenomenon and its modus operandi, and of the groups or individuals involved in these activities. States could benefit from working more collaboratively with one another in order to fill their knowledge gaps and devise joint efforts and strategies to respond to these common threats. This, in turn, requires not only

adequate legal frameworks that allow practitioners to exchange and make use of the received information, but also functioning communication channels and sufficient mutual trust and acknowledgement of the effectiveness of each other's criminal justice system.

34. Useful information exchange could include: updates among States on best practices in the areas of record-keeping, marking and deactivation of firearms; guidelines on efficient measures for seizure, confiscation, management and disposal of firearms, their parts and components and ammunition; statistical data on firearms losses, thefts and seizures in each country; levels of arms flows, internally and externally; patterns of both legal and illegal acquisition; impact on society; and best types of public awareness campaigns in each country.

35. However, in order to promote this exchange of information, States should seriously endeavour to collect relevant data on firearms in a systematic and regular fashion. Comprehensive record-keeping systems and digital databases that allow States to collect and store relevant firearms information, and eventually to cross-reference such data with other national data on related topics, have proven to provide States with the necessary information that can facilitate informed decision-making.

36. Another good practice has been the establishment of specialized firearms programmes, units or hubs within a competent authority, to centralize and deal with all firearms specific matters. Such hubs could help strengthen national responses to firearms-related offences by providing specialized support to all national services involved in firearms-related cases, as well as providing the groundwork for case-based international cooperation in investigations, including joint investigative teams. Such hubs could also fulfil the important task of monitoring and analysing on a regular basis firearms-specific data, such as seizures, losses and thefts, and to devise appropriate criminal justice responses.

37. When formal information exchange is required for the purpose of criminal investigations, a good practice has been the establishment of a structure to channel such requests for information to their destination quickly and efficiently and to handle the requests through a formal procedure, to ensure that the proper safeguards, checks and balances are followed and that the information gathered is credible and ultimately admissible in a court of law. The designation of a national body or a single point of contact for all matters relating to the Firearms Protocol (article 13) could be of vital importance in facilitating and making possible such cooperation and information exchange, especially among countries which do not have regular contact with each other. Competent authorities for international cooperation in criminal matters are also encouraged under the Organized Crime Convention, to exchange relevant information on a spontaneous basis, without necessarily a formal request for legal assistance.

38. Regular and direct contact among practitioners, facilitated by meetings, seminars or similar events, have proven to be great opportunities to share and discuss experiences, knowledge and difficulties, in an environment of mutual trust and confidence. In regions where practitioners have the opportunity to meet on a regular basis, experience has shown that the levels of mutual trust and confidence are considerably higher and that the exchange of relevant and even case-specific information is significantly greater than in regions where the only communication

channel are formal requests. Examples of more structured platforms include the ECOWAS network of West African States, the MERCOSUR Working Group on Firearms, Explosives and Ammunition (GTAM) in South America, the European Task Force on Firearms.

39. However, despite these platforms, investigators, prosecutors and other criminal justice practitioners tend to have very few opportunities to compare experiences and knowledge on issues related to the detection, investigation and prosecution of firearms-specific criminality and its links to organized crime. Regional networks of firearms and organized crime experts could be established to bring together practitioners in charge of the prevention and control of firearms, of the investigation and prosecution of related offences, and eventually, also recognized independent firearms experts and civil society representatives. These findings on good practices and lessons learned could be discussed in the Working Group on Firearms.

D. International law enforcement and judicial cooperation

40. Investigation and prosecution of transnational firearms trafficking cases present various challenges for States, not only because of the complexity of the subject matter and the difficulty of obtaining the necessary evidence, but also because of the sometimes complex jurisdictional implications of the cases, insufficient international cooperation among States for this specific form of crime, and diverging legislation and practices. The result is few cases of successful investigation and prosecution of offenders.

41. When international evidence is required, the existing cooperation mechanisms usually remain underutilized in facilitating criminal investigations of firearms-related cases. Moreover, many bilateral cooperation agreements do not apply to the offences included in the Firearms Protocol. Moreover, the Organized Crime Convention is only rarely used as a legal basis for cooperation in firearms specific cases, even though it is applicable to all Protocol offences that involve an organized criminal group and are transnational in nature.

42. The Working Group has also encouraged States to reinforce cooperation at the bilateral, subregional, regional and international level, including through mutual legal assistance and extradition.

Good practices

43. As documented and acknowledged by the Conference of the Parties in its past sessions, States should attempt to cooperate more widely with one another and consider making more use of the formal and informal cooperation mechanisms established under the Organized Crime Convention for the purpose of preventing, investigating and prosecuting firearms specific offences, and where applicable, consider using the Convention as the legal basis for such purpose.

44. Furthermore, harmonized national legislations and definitions can significantly contribute to facilitate the exchange of information and cooperation at local, regional and international levels.

E. International cooperation in tracing

45. Article 12, paragraph 4 of the Protocol, requires States to cooperate in the tracing of firearms that may have been illicitly manufactured or trafficked, and this cooperation must include providing prompt responses to requests for assistance in tracing such firearms. The purpose of tracing firearms and ammunition is to identify the point at which legally held firearms and ammunition have been diverted into the illicit market, which would include information about the last person or body that was known to hold legal authority over the firearms and ammunition. This, in turn, can help in identifying who was responsible for the diversion, and call them to account, thereby preventing future diversions from the same sources.

Good practices

46. Effective tracing requires proper marking, appropriate record-keeping and electronically based tracing systems. A good operational practice is to supply sufficient information to the requesting State such as: markings, type, calibre, photographs and any other relevant information; description of the illicit nature of the firearms and ammunition; circumstances under which the firearm was found, including identity of any person detained with the confiscated firearm; the legal justification for the request; and the intended use of the information. Another good administrative practice is to adopt laws, regulations and administrative procedures needed to deal effectively with tracing requests and to designate one or more national points of contact to exchange information and act as liaison on all requests received.

47. Timely and accurate responses to tracing requests are crucial for criminal investigations. Several good practices include, inter alia: acknowledging receipt of a tracing request within a reasonable time; providing all available information sought by the requesting State that is relevant for tracing the illicit firearms and ammunition, including specific information on date of manufacture, hidden or other identification markings, special characteristics, date on which technical testing was done, identification of the testing body, and information of firearms that were legally exported, including the date of export, the importing State, transit States; and final consignee.

48. Several tracing mechanisms exist at bilateral and multilateral levels. At the global level, a good practice for States is to seek cooperation through organizations that have an established capacity to provide information regarding the tracing of firearms, such as the International Criminal Police Organization (INTERPOL) and the World Customs Organization.

49. The INTERPOL Illicit Arms and Tracing Management System (iARMS) is a state-of-the-art tool that facilitates information exchange and investigative cooperation between law enforcement agencies in relation to the illicit movement of firearms, and firearms involved in the commission of crimes. The iARMS is an integral part of the international strategy and operational framework to combat the illicit trade in small arms and light weapons in all its aspects. Through a user friendly web-based interface, iARMS enables users to: report and/or query Lost, Stolen, Trafficked and Smuggled Firearms; and submit and/or respond to, as well as monitor the status of progress on, international firearm trace requests; and

export/download statistical reports about the reported firearms and submitted trace requests. The effective functionality of iARMS is therefore of significant global interest.

III. Monitoring the trafficking flows in firearms at national, regional and global level

A. Relevance of empiric firearms data

50. Reliable empirical evidence on firearms seizures, their parts and components, and ammunition, is of paramount importance for the establishment of regional and global firearms trafficking patterns and flows, which, in turn, can represent highly valuable information for law enforcement agencies and the criminal justice systems globally.

51. This has been widely acknowledged by the Working Group, which recommended States to adopt measures and standard procedures for seizure, identification, confiscation and destruction of illicitly manufactured and trafficked firearms, their parts and components and ammunition, including appropriate record-keeping of seized, confiscated, destroyed or deactivated. The Working Group also recommended that the Conference urge States parties to create mechanisms for the exchange of information on the registration of firearms and databases on seizures of firearms, as well as the exchange of information on trends and emerging modalities of organized crime related to trafficking in firearms, their parts and components and ammunition.

B. UNODC study on firearms trafficking

52. In its resolution 5/4, the Conference requested UNODC to conduct a study on the transnational nature of and routes used in trafficking in firearms, based on the analysis of information provided by States on confiscated weapons and ammunition. In Note by the Secretariat on the work of the United Nations Office on Drugs and Crime on conducting a study of the transnational nature and routes used in trafficking in firearms, UNODC concluded that a comprehensive study on the transnational nature of firearms trafficking and the routes used needed to be global in scope, and to allow for comparative analysis. The study would also require a critical mass of participating countries, in order to be sufficiently representative and allow for identification of routes and patterns, and to use a reliable and transparent methodology for the collection of the data, based on standardized approaches in terms of content, quality and duration. The repetition of this exercise over time would allow the production of solid and measurable data and to identify trends and patterns in illicit trafficking. In its subsequent resolution 6/2, the Conference requested UNODC to improve methodology, in close consultation with Member States, and to complete the study in accordance with the given mandate.

Objectives of the study

53. The Study aims at increasing the understanding of the problem of firearms trafficking, revealing existing routes in the illicit trade of firearms and identifying

new or emerging global trends. By focusing on the identification of the main trafficking flows across regions, the study seeks to enhance the understanding of the inter-connectedness and transnational nature of such a phenomenon. This could allow for cross-reference of data on source and/or manufacturing countries, trafficking routes and methods, as well as on the actors involved. The information obtained could enable practitioners to establish the extent of the involvement of organized criminal groups in such proscribed activities, and replace anecdotal evidence with concrete, empirically verifiable data. The study could further assist in the identification and consequent anticipation of risks, and in the effective conduct of threats analyses, eventually resulting in the ability of relevant authorities to take informed decisions and information-driven preventive and control measures.

Importance of strengthening national monitoring and analysis capacities

54. Nevertheless, a study on firearms trafficking, even if comprehensive and global in scope, is inadequate as a stand-alone solution in improving knowledge gaps and providing the required empirical evidence on the trafficking phenomenon and its links to crime. Given the dynamic nature of illicit trafficking, there is a need for a continuous flow of data, in order to keep track of the changing trends and patterns in this field. For this reason, it is indispensable that States develop and establish their own national capacities to collect and analyse firearms trafficking data, and engage in information exchange at the regional and international level.

55. National firearms information systems are of strategic importance for States. Strengthening the national capacity of States to produce their own data and to undertake such monitoring and analysis activity within their own institutions would heighten their awareness of the problem in order to understand and address their domestic and regional issues. UNODC supports countries in putting mechanisms and structures in place to ensure regular and systematic collection of standardized firearms data. In particular, UNODC seeks to collect existing data on seizures, so that they can be used by different national actors within each country. Systematic firearms trafficking data can in fact assist law enforcement agencies in the course of investigations, enhance the exchange of information and international cooperation among countries, as well as contribute to informed decision-making at the policy level.

56. With a view to establishing enhanced international cooperation among States and law enforcement agencies in the course of investigations, the study additionally promotes and encourages States to trace firearms both domestically and internationally and to exchange the results.

Existing challenges

57. Information on firearms trafficking magnitudes, patterns, routes and modus operandi is limited and difficult to obtain. Many states do not collect and analyse firearms trafficking data systematically, or lack the technical and operational skills and resources to do so. Others use different statistical rules and data collection methodologies which complicate the exchange of information and the eventual extrapolation of findings relevant for a regional or global study.

58. Different national legal systems can also present legislative divergences among regions. In some countries, firearms trafficking does not represent a

criminalized practice as such. As a consequence, instances of firearms trafficking do not lead to firearms seizures on the part of national agencies with seizure power nor do they reach national authorities as they go unreported.

59. As a result, existing reports and studies are often based on partial and scattered information, secondary evidence and/or open source data, which are not always empirically verifiable or comparable. This provides an incomplete view of the problem, which, in turn, is not sufficient to determine ongoing dynamics and trends, nor to establish connections and links to the broader context in which illicit manufacturing and trafficking occur. Oftentimes such studies are time bound and limited in scope, based on different methodologies, developed in isolation or lack applicability for practitioners on the ground and in the field. As a result, their effectiveness is sometimes reduced as they do not build sustainable capacity that would enable countries to carry on with future data collection exercises, which would lead to the creation of time series, trend analysis, and could feed into domestic and regional datasets at periodic intervals.

Methodology employed and related activities

60. UNODC, in consultation with Member States and experts, developed a concept note describing the methodology and objectives of the study. UNODC seeks to follow a thorough methodology in order to overcome the challenges posed by a pioneering global data collection exercise on firearms trafficking.

61. The study is based on a transparent and simple methodology which uses statistical data and information provided by States on seized arms and ammunition. Data are being collected in a standardized and compatible way, so as to allow the comparison of the findings. When information is gathered and collected in such manner across countries and regions, it can be projected in a larger context, further enhancing its usefulness. At this point in time, it is not yet possible to establish the extent of the study, as this will depend on the number of States participating and on the quality of the data provided.

62. Definitional obstacles/barriers were addressed by resorting to international crime data collection standards and definitions such as the one used by INTERPOL, among others. The key concepts to be used for the completion of the questionnaires drew upon the United Nations Convention Against Transnational Organized Crime and its additional Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition.

63. The study utilizes two sets of Questionnaires: one Annual Seizures Questionnaire and one Significant Seizures Questionnaire for each reporting year. For the purpose of identifying trends and patters, Member States were requested to provide data for the reference years 2010, 2011, 2012, and where possible for 2013 seizures. A password protected online portal was developed to allow Member States to access all information relevant to the Global Firearms Trafficking study, and for the UNODC to effectively keep track of country's activities with a view to providing them with prompt and high quality assistance at every step of the data collection process, while attempting to achieve the highest possible participatory rate. The portal was designed in a user-friendly manner, so that Member States can easily download the questionnaires on their computers, provide the available data on seizures and return them to UNODC using the same procedure. The data will then

automatically be incorporated into the UNODC firearms trafficking database for further extraction and analysis.

64. All Seizure Questionnaires (Excel files) are available on the portal in the six United Nations official languages. A toolkit in English, Spanish and French is also available in the portal, to provide guidance for both focal points and completing officers on the successful completion of the Seizures Questionnaires.

65. The deadline for the submission of the first set of questionnaires was 31 March 2014. As of 2 April 2014, 75 States had accessed the Firearms Trafficking Portal and downloaded at least the Annual Seizure Questionnaire and 66 States had downloaded at least the Significant Seizures Questionnaire. To date, UNODC was notified of the appointment of 20 national focal points. UNODC is actively working to provide States with tailored assistance on the completion of the Questionnaires and the adequacy of the information shared. As of today, 13 States have submitted at least one questionnaire and 4 have provided alternative qualitative information.

C. Accompanying technical assistance support

66. On different occasions, Member States have expressed to UNODC their interest in contributing to the global understanding of firearms trafficking and its extent, flows, and patterns. Nevertheless, often States are faced with various constraints and obstacles, which dramatically reduce their possibility of possessing and generating reliable and timely information on firearms trafficking.

67. One of the objectives of the study is to bring about long-term benefits for participating States, by contributing to strengthening their monitoring and analysis capacity. This will also enable them to produce, analyse and exchange relevant data and information on firearms trafficking and related crimes, in line with article 12 of the Firearms Protocol. To this end, UNODC is also supporting the establishment of a monitoring mechanism in the form of focal points or inter-institutional units, to establish a national capacity to collect and analyse data in a systematic fashion.

68. Through its Global Firearms Programme, UNODC is providing ad hoc technical advice and supporting Member States (primarily countries from West Africa, the Sahel region and South America), to strengthen their national data collection and analysis capacity. This consists of national training activities and regional seminars with sessions dedicated to address data-collection and analysis challenges, in addition to practical exercises on record-keeping, identification and tracing of firearms.

69. In 2013 and 2014, UNODC organized several regional seminars and national training activities focused on firearms identification, recording and tracing, and on strengthening the national data collection and analysis capacity of States.

IV. Illicit manufacturing of firearms

70. Illicitly manufactured firearms are not licensed or authorized by the relevant authorities, and are not subject to control for compliance with the existing production quality standards, requirements on storage safety and security, as well as applicable provisions related to health safety. They do not support the economic

development of the country, as such illicit activities do not generate income tax, but further contribute to the development of illicit markets and to the increase of corruption.

71. Illicitly manufactured firearms present different levels of quality and sophistication. A widely observed phenomenon is the craft production, which usually refers to firearms that are fabricated largely by hand in relatively small quantities. Such craft-produced firearms can range from rudimentary handguns and shotguns to more advanced and sophisticated assault rifles. In contrast is the rudimentary production by criminal groups and gangs, of any tool suitable for shooting.

A. Legal framework

72. The Firearms Protocol is the only legally binding international instrument that defines and criminalizes illicit manufacturing. According to Article 3, paragraph (d), illicit manufacturing means the manufacturing or assembly of firearms, their parts and components or ammunition from parts and components (i) illicitly trafficked; (ii) without a licence or authorization from a competent authority of the State where the manufacture or assembly takes place; or (iii) without marking the firearms at the time of manufacture, in accordance with the Protocol.

73. Article 5 establishes three main offences on illicit manufacturing, with the aim to covering all stages of the manufacturing process and ensuring that the basic import, export and tracing requirements of the Protocol will not be circumvented by the manufacturing of all single parts and components of a firearm and their exports prior to assembly into the finished product; that the manufacturing of the firearms will not take place covertly since a competent authority must authorize the activity; and that the manufacturing process includes markings sufficient for tracing.

74. The first meeting of the Working Group specifically urged State to ensure that production of firearms, including handcraft firearms, their parts and components and ammunition, be in accordance with the proper licensing, authorization and marking requirements, including through appropriate criminalization provisions.

B. Preventing and countering illicit manufacturing of firearms

Challenges

75. Law enforcement agencies encounter numerous challenges in fighting illicit manufacturing of firearms, including the identification of production locations, the tracing of illicitly manufactured firearms through a chain of intermediaries, and new and emerging production technologies and distribution channels.

76. The production facilities for illicit firearms can be small workshops, with a few employees, usually family or community members. The manufacturing business takes place most often in difficult to detect home basements, garages or blacksmith workshops. As the facilities are not licensed for firearms production, the manufactured firearms are unmarked, unregistered and completely untraceable by authorities. Depending on the production techniques and materials used, the illicit firearms can be a cheap alternative for criminals.

77. Moreover, a new emerging trend in illicit manufacturing is the use of new technologies. The advent of 3D-printing technology has created new challenges for law enforcement services to detect and combat illicitly manufactured firearms. 3-D printing is a manufacturing process built on layers, to create a three-dimensional solid object from a digital model. Initially devised in the 1990s as a means to produce relatively inexpensive prototype parts for industrial and automotive design work, such technology has gained popularity because of cost-savings.

78. To print a 3-D object, the manufacturer uses a 3-D computer-aided design (CAD) program to create a digital model that gets sliced into very thin cross-sections called layers. Several States have already encountered and confiscated 3D-printed firearms. Following a study conducted by one Member State, 3D-printed firearms are undetectable, truly untraceable, cheap and easy to make. The test included downloading firearm's blueprints from Internet and using a low cost 3D printer. The specific type of firearm that was tested was printed in 15 parts, during 27 hours, and was assembled within 60 seconds with an improvised firing pin from a steel nail. The printed firearm was test fired into a block of resin designed to simulate human muscle, and the first bullet penetrated the resin block up to 17 centimetres, which led to the conclusion that it could cause fatal wounds. Similar tests are known to have been conducted in other countries.

79. The changing distribution channels for illicitly manufactured firearms represent another challenge for police forces worldwide. The use of Internet as media for exchange of information, goods and services, and for the commission of crimes, has given rise to online trafficking of such illicitly manufactured firearms. Whereas in the past the exchange was taking place between two individuals in the same place, a recent case from a Member State shows a suspect communicated and negotiated on the Internet with the prospective buyers, used money service for funds transfer, and shipped illicitly manufactured parts through a courier company.

Good practices

80. Some of the good practices in curbing illicit manufacturing stem from cases where illicit production are mainly concentrated among local blacksmiths. The locally produced weapons were unconventional in design and relatively unsophisticated, constructed with little to no modern machinery, made with a cast iron barrel, aluminium firing mechanism, and a rough wooden handle. These firearms were unmarked, unregistered, completely untraceable by authorities, widely available, and cheap. As they were increasingly being traded across borders into other Member States, these arms contributed to undermine the countries' efforts in firearms control and to regional destabilization. With a view to countering this phenomenon, a State conducted first a technical assessment survey on the skill level of the blacksmiths, to explore to which extent these individuals could produce arms of exportable quality. It also conducted a labour market study to identify alternative livelihood schemes for those ones that were not able or interested in registering as licensed gunsmiths. The first ones received assistance to become licensed gun manufacturers and were officially registered. This would enable them to produce higher quality, traceable weapons as per government standards. Plans were developed to also support those interested in pursuing alternative opportunities in making a successful transition to legal, sustainable livelihoods.

81. Other good practices would entail the revision of the legislative frameworks, in particular the criminalization provisions on illicit manufacturing, to ensure that new technologies such as the use of 3D printed guns, are dully covered by their domestic legal framework, and to provide continuous up-to-date knowledge to investigators, prosecutors and judges on these emerging trends, with a view to sensitizing them on such new developments.

V. Conclusions and recommendations

82. Full implementation of an effective firearms control regime requires an appropriate legislative framework, the coordinated action of various specialized entities with appropriate staffing, as well as technical and financial resources. This is a process in which the States parties have encountered many challenges and, at the same time, achieved considerable progress.

83. The Working Group may wish to consider ways of ensuring sustained financial and technical assistance to implement the recommendations and proposed activities provided below, especially by providing assistance to countries in post-conflict situations and least developed countries.

84. The Working Group may wish to consider the recommendations and proposed activities provided below for possible inclusion in the report on the activities of the Working Group to be presented to the Conference for its consideration, in accordance with resolution 6/2.

A. Recommendations

85. States parties may wish to (i) consider taking integrated approaches to firearms control, and (ii) ensure that preventive and regulatory measures match with their corresponding criminal justice responses to prevent and combat illicit manufacturing of and trafficking in firearms.

86. States parties may wish to (i) identify successful measures and experiences with regard to criminalization, investigation and prosecution of illicit firearms trafficking, (ii) consider ways to establish monitoring mechanisms of illicit trafficking flows in firearms and facilitate the exchange of information with interested States and (iii) consider ways to ensure regular data collection on firearms and periodic monitoring of the illicit flows at the national, regional and global levels.

87. States parties may wish to share experiences in preventing and combating the illicit manufacturing of firearms, including through regional network of experts and practitioners and, at global level, through the UNODC Working Group on Firearms

B. Activities proposed by the United Nations Office on Drugs and Crime

88. UNODC should assist States through legislative and technical assistance in the establishment and implementation of comprehensive firearms control regimes, in

compliance with the Firearms Protocol, taking into account the national priorities and needs.

89. UNODC should assist in the identification and dissemination of good practices with regard to (i) investigation and prosecution of firearms-related offences and their links to organized crime; (ii) development and maintenance of comprehensive record-keeping systems on firearms; and (iii) marking and tracing of firearms.

90. UNODC should endeavour to continue to collect data on firearms trafficking and conduct, in cooperation with Member States, annual studies on the illicit trafficking in firearms, their parts and components and ammunition, with a view to identifying trends, patterns and modus operandi.

91. UNODC should promote the establishment of regional networks of firearms experts to facilitate the exchange of expertise and knowledge on the investigation and prosecution of firearms trafficking and related crimes.